

## Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00 DOTE-00

EB-11 INR-10 NSAE-00 RSC-01 FAA-00 AF-10 ARA-16 EA-11

EUR-25 NEA-10 OMB-01 H-03 L-03 NSC-07 PA-04 PRS-01

SP-03 SS-20 SSO-00 NSCE-00 USIE-00 INRE-00 DRC-01

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FM AMCONSUL MONTREAL

TO SECSTATE WASHDC IMMEDIATE 4606

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E.O. 11652: N/A

TAGS: ETRN, CA

SUBJECT: ICAO - US REQUEST FOR LEGAL OPINION RN SENEGAL PROPOSAL  
(DEFEATED MARCH 22)

USREP ICAO

REF: MONTREAL 0331

1. IN COUNCIL MEETING APRIL 5 (C-0/B 8//18) AT CONCLUSION FIRUT  
TWO ITEMS (CLOSED MEETING), DIALLO ASKED FOR FLOOR TO "BRING  
UP SOMETHING NOT ON O/B". PRES/COUNCIL IGNORED HIM AND ANNOUNCED  
THAT "FIRST" THE SEC GEN WISHED MAKE STATEMENT FOR INFORMATION  
OF COUNCIL. SEC GEN THEN ADVISED COUNCIL THAT THE  
LEGAL OPINION ON SENEGAL PROPOSAL REQUESTED DURING CONSIDER-  
ATION THAT PAPER WOULD BE ISSUED SHORTLY. DIALLO EXPLODED.  
IN EMOTIONAL OUTBURST HE STATED THAT THIS ANNOUNCEMENT OBVIOUSLY  
DESIGNED PREJUDICE HIS "REMARKS ON PARA 4" IN CONNECTION WITH  
ITEM 6 ON OB (BELGIAN PROPOSAL TO INCREASE COUNCIL.)  
FYI "PARA 4" REFERS CWP 5913. WHEN COUNCIL CONSIDERED ON MARCH  
18, DIALLO POINTED OUT PRECEDENT FOR ELECTING ALL MEMBERS ONE  
BALLOT/ONE CATEGORY AND RELATED THIS TO HIS PROPOSAL FOR RUNNING

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IN DIFFERENT PARTS AND MIXING GEOGRAPHIC CONSIDERATIONS ALL PARTS. END FYI. DIALLO RANTED SOMETIMES TOO FAST FOR INTERPRETER SAYING HE DEMANDED TIME IN COUNCIL TO REBUT LEGAL OPINION IF INFO PAPER CIRCULATED. US REP INTERVENED EXPRESSING SURPRISE MUTTER WAS BEING DISCUSSED IN COUNCIL AND REITERATING EXACT DETAIL OF TWO REQUESTS OF US DURING DISCUSSIONS ON SENEGAL PROPOSAL.

2. MEXICO INTERVENED IN EFFORT BE HELPFUL SUGGESTING COUNCIL CONSIDER LEGAL OPINION AFTER ISSUED THEN DECIDE LATER (NEXT SESSION) WHETHER FURTHER DISCUSSION WOULD BE HELPFUL. DIALLO INTERVENED AGAIN INSISTING. PRES/COUNCIL STATED SHEEPISHLY HE HADNT CONSIDERED RELEVANCE SECGENS STATEMENT TO ANY ITEM ON OB SINCE TOTALLY UNRELATED.

3. BELGIUM INTERVENED EXPRESSING SURPRISE THAT COUNCIL INVOLVED IN DISCUSSION OF SOMETHING NOT ON OB AND SHOULD AT LEAST COME UNDER "OTHER BUSINESS". SECGEN WAS PURPLE. PRES DECLARED COFFEE BREAK.

4. DURING BREAK, USREP ASSURED DIALLO US CONSIDERED THIS ROUTINE CIRCULATION INFO PAPER ALREADY EXPECTED, ETC. HOWEVER, DIALLO HAD ALREADY SEEN LIGHT AND WAS OBVIOUSLY PEASED MATTER "BEING REOPENED"-- HE WOULD INSIST ON COUNCIL DISCUSSION AND "THIS TIME THE OUTCOME WILL BE DIFFERENT".

5. PRES IGNORED QUESTION AFTER BREAK, PROCEEDING TO OTHER ITEMS. HOWEVER, AT END OF MEETING, NIGERIA ASKED WHAT HAD BEEN DECIDED. THIS REOPENED LOUD EMOTIONAL DISCUSSION. PRES/COUNCIL FINALLY DECLARED THAT QUESTION OF WHETHER TO CIRCULATE LEGAL OPINION WOULD BE PUT TO COUNCIL NEXT WEEK. USREP ASKED UNDER WHAT ITEM IN WORK PROGRAM THIS WOULD BE PUT ON OB. PRES: REQUEST OF A STATE FOR LEGAL OPINION ON SENEGAL PROPOSAL. USREP: NOT MAKING A REQUEST -- ASKING SECGEN TO COMPLY WITH TWO COUNCIL DECISIONS. WHAT WERE OBJECTIONS IN COUNCIL TO EACH REQUEST? PRES: "THAT WAS IN CONNECTION WITH A PAPER THEN BEFORE COUNCIL -- NOW IT IS DEAD." SOME INTERVENTIONS REFERRED TO FACT SENEGAL PROPOSAL ALREADY "BURIED".

5. QUESTION TABLED WEDNESDAY APRIL 10. EMOTIONS HIGH. SOME LIMITED OFFICIAL USE

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REPS ANGRY WITH US FOR PURSUING MATTER WHEN "ISSUE DEAD." OTHERS ANGRY WITH DIALLO FOR NOT ACCEPTING ROUTINE CIRCULATION. OTHERS ANGRY WITH SECGEN FOR LETTING COME INTO COUNCIL.

6. PRES/COUNCIL SAYS DIALLO WOULD HAVE TO CIRCULATE HIS OWN REBUTTAL PAPER (OR COME TO COUNCIL WITH REQUEST HAVE COUNCIL DO IT.)

7. IF DIALLO REQUESTS IT GO ON ORDER BUSINESS, COUNCIL WILL HAVE TO VOTE WHETHER TO PUT IT ON AT OPENING NEXT SESSION IN FOUR WEEKS. FYI: USREP PREDICTS WILL RPT WILL BA ON, AS COURTESY TO COLLEAGUE BECAUSE US INSISTS ON "BEATING DEAD HORSE," AND BECAUSE SEVERAL STATES WANT ANOTHER OPPORTUNITY TO CONSIDER SENEGAL PROPOSAL. PRES/COUNCIL WILL NOT ACCEPT REOPENING DISCUSSION OF "LEGALITIES OF SENEGAL PROPOSAL."

8. FYI. APRIL 8 AM AFRICAN AND LATIN AMERICA BLOC VOTING SOLIDLY WITH US FORREPT FOR CIRCULATING LEGAL OPINION. PRES/COUNCIL IN CONSULTATIONS COUNTS EIGHTEEN FOR CIRCULATING. MAJORITY AGAINST ARE EUROPEANS WHO VOTED WITH US TO DEFEAT SENEGAL PROPOSAL INCLUDING ALL THOSE WHO DONT WANT PROPOSAL TO BE REOPENED. END FYI.

9. FOLLOWING COUNCIL DISCUSSION MAY, DIALLO WILL RESUBMIT HIS PROPOSAL (INDEPENDENTLY) FOR ASSEMBLY AGENDA. SECRETARIAT LEGAL OPINION TOGETHER WITH REPT WITH COUNCIL DECISION WILL BE CIRCULATED ALL STATES AS WORKING DOCUMENTS ACCOMPANYING SENEGAL PROPOSAL. DIALLO WILL NOT HAVE TO WAIT UNTIL ASSEMBLY TIME.

10. LATIN AMERICANS NOW SAY THEY WILL NOT RPT NOT AGREE WITH LEGAL OPINION THAT STATES HAVE RIGHT TO RUN MORE THAN ONCE. THEY WANT TO ASSURE PART II TO III ONLY. EUROPEANS MAY AGREE BUT FOR DIFFERENT REASON--THEIR INTEREST IS I/II. THE LEGAL OPINION ITSELF IS WEAK RE GEOGRAPHIC CONSIDERATION IN I AND II. COUNCIL DELIBERATIONS AND RESULTING PAPER WILL SERIOUSLY ERODE SECRETARIAT LEGAL OPINION.

11. PER DILLION/GRIP TELCON AND FOREGOING PARA 1, PRES/COUNCIL INDICATES FOLLOWING PROCEDURE. (ABL TITLE OF ITEM ON PROCEDURE FOR ELECTION OF THE COUNCIL DESCRIBED IN C-WP/5910," LIMITED OFFICIAL USE

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(B) IF OBJECTIONS ARE RAISED TO CIRCULATING, WILL TRY TO SETTLE ISSUE WITHOUT LONG DISCUSSION AND BY SHOW OF HANDS; (C) IF SHOW OF HANDS NOT ALLOWED BY A MEMBER, PROPOSAL WILL HAVE TO BE MADE AND REQUEST FOR STATUTORY MAJORITY IN ORDER. IF MADE, WILL PROBABLY BE BY EUROPEAN OR NON-ALIGNED TO DEFEAT US/AFRICAN/ARAB BLOC.)

12. ACTION: USREP URGENTLY REQUESTS AGAIN THAT US DROP RPT DROP INSISTENCE ON CIRCULATING SECRETARIAT LEGAL OPINION AT THIS TIME AND LEAVE CIRCULATION UNTIL LATER AS DIRECT RESPONSE TO SENEGALS NEXT PROPOSAL. THIS COULD BE ACCOMPLISHED BY PRES/COUNCIL SIMPLY NOT PUTTING ITEM ON OB. (DOUBT DIALLO HIMSELF WOULD TAKE INITIATIVE TO EXTENT OF REQUESTING ON O/B.) US WOULD NOT "WITHDRAW" SINCE NO PROPOSAL TO WITHDRAW.

13. INSISTENCE ON ANOTHER CONFRONTATION AT THIS TIME IS  
DETRIMENTAL: (A) WILL ALLOW COUNCIL EROSION LEGAL OPINION;  
(B) WILL PERMIT DIALLO REOPEN CONSIDERATION HIS PROPOSAL  
(C) WILL PROVIDE DIALLO EARLY OPPORTUNITY FILE PROPOSAL  
FOR ASSEMBLY WITH SECRETARIAT LEGAL OPINION AND COUNCIL  
CRITICISM; (D) GIVES DIALLO PROPONENTS MONTHS OF PREPARA-  
TION AGAINST LEGAL IMPLICATIONS (IF ANY REMAIN). (3) REOPENS  
UNPLEASANT ISSUED THAT POLARIZE/POLITICIZE COUNCIL WHEN  
COUNCIL THOUGHT MATTER HAD BEEN DEALT WITH. USREP CAN THINK  
OF NO US OBJECTIVE TO BE ACHIEVED IN THIS EXERCISE THIS TIME.  
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